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**WTO HORMONES REPORT CONFIRMS U.S. WIN**

The World Trade Organization (WTO) released to the public today the final dispute settlement panel report on the European Union's import ban on meat produced using growth-promoting hormones. The WTO panel's findings, which uphold the claims of the United States, were issued confidentially to the concerned governments on June 30, 1997. This was the first dispute involving the SPS agreement.

"This final report confirms the value of the new WTO Agreement on the Application of Sanitary and Phytosanitary Measures in distinguishing legitimate food safety requirements from unscientific and unjustified barriers to U.S. exports," U.S. Trade Representative Charlene Barshefsky said. "I am pleased that the WTO agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. I am pleased that the panel affirmed the need for food safety measures to be based on science, as they are in the United States."

"The final report issued today by the WTO is welcome news for the U.S. beef industry," Agriculture Secretary Dan Glickman said. "The WTO dispute settlement panel has affirmed what we have known for over nine years: that European consumers are being denied a high quality and safe product due to an import regulation that cannot stand up to the test of good science. The panel drew on advice from eminent scientists from around the world to help it determine that the EU ban on U.S. beef was unjustified. I hope that the EU will now take steps to bring this import regulation into conformity with its WTO obligations and lift the ban on beef from the U.S., Canada and other affected countries. We are prepared to work with EU officials to accomplish this as soon as possible."

The WTO report finds that Europe's ban on the use of six hormones to promote the growth of cattle is inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). In particular, the panel's report affirms that the EC's ban is not based on science. It was not based on a risk assessment or on the relevant international

standards, and the EC has arbitrarily or unjustifiably distinguished between its policy for the hormones and other substances, resulting in discrimination or a disguised restriction on trade.

The United States expects the WTO report to lead to a new EU policy that is fully consistent with the EU's international trade obligations.

The hormones dispute is the fourth case brought successfully by the United States through the WTO panel process.

*Note: The full text of all WTO panel reports is on the WTO's World Wide Web site at <http://www.wto.org>.*

### Background

On January 1, 1989, the EU imposed a ban on imports of animals and meat from animals treated with hormones to promote the animal's growth. The United States objected to this ban with respect to six specific hormones. These six hormones have been found to be safe for use for growth promotion purposes by all the countries that have reviewed them. Furthermore, the independent experts of the Codex Alimentarius Commission have also reviewed five of these hormones and found them to be safe (they have never been asked to review the sixth, which is not as widely used). In fact, the EU has twice commissioned a scientific study of these same five hormones, and both times those scientists have found them to be safe.

Three of the hormones at issue are naturally present in all meat and in all people. The hormone level in beef from animals to which these hormones have been administered to promote growth are well within the normal levels. In fact, the levels in beef are far less than, for example, the level of these hormones found in a single egg. (For example, an average adult would need to eat 169 pounds of beef from animals to which one of these hormones has been administered in order to equal the amount of that hormone in one egg.)

The U.S. challenge to the EU import ban was based primarily on arguments that the ban breaches provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"). This was the first dispute involving the SPS Agreement. That agreement clearly preserves the right of governments to apply food safety measures to protect human life and health, but at the same time it requires that such measures must in fact be for that purpose and not for protectionist purposes.

The SPS Agreement establishes rules for determining whether import bans and other trade-restrictive actions that governments may characterize as food safety measures protect public health or provide a competitive advantage for domestic producers. In particular, the SPS Agreement relies on science to distinguish legitimate food safety measures from disguised protectionism. The SPS Agreement provides dispute settlement panels with clear guideposts for their review. It provides that measures must be based on scientific principles, must not be maintained without sufficient scientific evidence, must be based on a scientific assessment of whether there are any risks to human life or health, must not be more trade-restrictive than required to achieve the appropriate level of protection from such risks, and must be based on international standards, guidelines or recommendations, where they exist, except where a more stringent standard is deemed appropriate in order to achieve a different level of protection or where there is a scientific justification.

The SPS agreement also encourages dispute settlement panels to seek advice on scientific issues from experts chosen by the panel in consultation with the parties to the dispute. In making its findings in this dispute, the panel sought the advice of independent scientific experts, the first time a WTO panel has made use of this procedure. The panel report summarizes the advice received from the experts and includes the transcript of the panel's meeting with the experts.

In this case the EU's import ban ignores a vast body of scientific evidence -- including evidence produced by the EU's own reviews -- that it is safe to consume meat from animals to which these drugs have been administered in accordance with good animal husbandry practice.

During the WTO legal proceedings the EU claimed that its ban is based on health concerns. However, when it was first put in place, the EU acknowledged that the ban served the purpose of eliminating competition from imports of hormone-fed beef in EU markets and of leveling the competitive playing field in Europe where, prior to the EU ban, some countries allowed the use of growth hormones for farm animal production and others did not. The United States argued that U.S. meat treated with these six growth promoting hormones is safe and that the EU's attempt to protect domestic production from more competitive imports (and intra-EU competition) is trade protectionism, not protection of health and safety.

This dispute has a long history. The 1989 EU ban cut off U.S. beef exports to the Community valued then at approximately \$100 million annually. The United States tried to challenge the EU measures under the dispute settlement procedures available at the time, but the EU refused to allow a technical experts group to review the case. In response to the EU's blockage of dispute settlement procedures, the United States increased duties on certain products of the EU, pursuant to section 301 of the Trade Act of 1974. The increased U.S. duties remained in effect until the United States succeeded in having a WTO panel established to examine the EU hormone ban.

After the World Trade Organization (WTO) was created, the United States invoked the new WTO dispute settlement procedures to challenge the EU ban. Under the new WTO procedures, the EU cannot block the process, as it was able to do under the prior procedures.

The United States requested consultations with the EU in late January 1996, and in May 1996 the WTO Dispute Settlement Body established a panel to hear the case. Canada later brought a parallel action to challenge the EU ban, and the same panelists were assigned to hear the Canadian case. The panel has issued its final report with similar findings with respect to the challenge by Canada.

The WTO provides for an appeal of final panel reports. The EU is widely reported in the press as intending to appeal this panel report. The United States expects that the WTO Appellate Body would support the panel's conclusions.